

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT R. PORTER,)	
)	Civil Action No. 04 - 465
Plaintiff,)	
)	Judge Thomas M. Hardiman /
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
MARK CAPOZZA, Unit Manager,)	
)	
Defendant.)	

MEMORANDUM ORDER

Plaintiff's complaint was received by the Clerk of Court on March 25, 2004 and was referred to United States Magistrate Judge Ila Jeanne Sensenich for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. On April 6, 2004, this case was transferred to United States Magistrate Judge Lisa Pupo Lenihan.

The Magistrate Judge's Report and Recommendation filed on November 2, 2006 (Doc. No. 20) recommended that the Defendants' Motion to Dismiss be granted as to Plaintiff's claims against Defendant Capozza in his official capacity and denied as to Plaintiff's claims against Defendant Capozza in his individual capacity. It further recommended that the parties' request to consolidate this case be granted and that the Clerk of Court be directed to consolidate this case with Porter v. Blake, Civil Action No. 04-464 (W.D. Pa.). Service was made on plaintiff at S.C.I. Camp Hill and on counsel of record. No objections have been filed.

After review of the pleadings and documents in the case, together with the report and recommendation, the following order is entered:

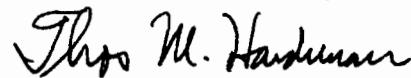
AND NOW, this 9th day of January, 2007;

IT IS HEREBY ORDERED that the Defendant's Motion to Dismiss is **GRANTED** as to Plaintiff's claims against Defendant Capozza in his official capacity and **DENIED** as to Plaintiff's claims against Defendant Capozza in his individual capacity.

IT IS FURTHER ORDERED that the parties' request to consolidate this case is **GRANTED** and the Clerk of Court is directed to consolidate this case with Porter v. Blake, Civil Action No. 04-464 (W.D. Pa.).

IT IS FURTHER ORDERED that the Clerk of Court mark this action as **CLOSED**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 20) of Magistrate Judge Lenihan, dated November 2, 2006, is adopted as the opinion of the court.



Thomas M. Hardiman
United States District Judge

cc: ROBERT R. PORTER
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All counsel of record.